

CUSTOMER NO.: 24498**Serial No. 09/914,683**

Reply to Office Action dated: 01/09/06

Response dated: 03/16/06

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PD990013****REMARKS**

In the Office Action, the Examiner stated that claims 1-7 are pending in the application and that claims 1-7 stand rejected. None of the Applicant's claims are amended by this response.

In view of the following discussion, the Applicant respectfully submits that none of these claims now pending in the application are anticipated under the provisions of 35 U.S.C. § 102 or rendered obvious under the provisions of 35 U.S.C. § 103. Thus the Applicant believes that all of these claims are now in allowable form.

Rejections**A. 35 U.S.C. § 102**

The Examiner rejected the Applicant's claims 1, 2 and 4 under 35 U.S.C. § 102(b) as being anticipated by Iitsuka (U.S. Patent No. 5,414,686). The rejection is respectfully traversed.

The Examiner alleges that regarding claim 1, Iitsuka teaches method for recording real-time files including all of the elements of the Applicant's invention. The Applicant respectfully disagrees.

The Applicant respectfully submits that Iitsuka absolutely fails to teach, suggest or anticipate the invention of the Applicant, at least with respect to independent claim 1, which specifically recites:

"Method for recording real-time files containing real-time data, wherein real-time file attributes are permanently assigned to the real-time files and are concomitantly recorded together with the real-time files, the real-time file attributes describing hardware independent real-time requirements of the real-time files during a real-time file transfer for playback of the real-time files, wherein at least the following real-time file attributes are provided:

a) a guaranteed minimum transfer rate during the real-time file transfer,

b) a maximum transfer rate during the real-time file transfer,

c) a buffer store size used during the real-time file transfer,

and that rules for recording the real-time files are derived from the real-time file attributes in order to ensure that the real-time

CUSTOMER NO.: 24498

Serial No. 09/914,683

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Response dated: 03/16/06

**PATENT
PD990013**

properties of the real-time files are preserved during the recording process." (emphasis added).

The invention of the Applicant, at least with regards to claim 1, is directed at least in part to a method for recording real-time files containing real-time data, in which real-time file attributes describing hardware-independent requirements of the real-time files are recorded together with the real-time files. In the invention of the Applicant, at least with respect to claim 1, rules for recording the real-time files are derived from the real-time file attributes such that the real-time properties of the real-time files are preserved during the recording process. For example, in support of at least the Applicant's claim 1, the Applicant in the Specification specifically recites:

"The intention is for the real-time file to be able to be read in real time and written in real time on the hard disk. For this purpose, the file manager must know a number of properties of the HDD, that is to say how rapidly contiguous sectors can be read, how long a jump to another sector takes, etc. By means of the real-time file attributes, the file manager can then derive the way in which the HDD storage space that is still free can be allocated in order the real-time requirements made of the real-time file are fulfilled." (See Specification, page 6, lines 7-17).

And

"A real-time file can be transferred between a wide variety of recording/reproduction apparatuses such as, for example, a CD or DVD-RAM drives or hard disks. Moreover, it is possible, for instance, to copy a real-time file from a DVD-RAM drive to a tape without the real-time property of the real-time file being lost. (See Specification, page 8, lines 9-14).

As evident from at least the portions of the Applicant's disclosure presented above, it is clear that in the invention of the Applicant, real time data is recorded such that the recorded real time data can be played or reproduced by substantially any reproduction means, without the need for any special reproduction methods, such that the real-time property of the real-data is not lost in the replay of the real time data.

The Applicant respectfully submits that litsuka fails to teach, suggest or anticipate at least a method for recording real-time files containing real-time data including at least that "rules for recording the real-time files are derived from the real-time file attributes in order to ensure that the real-time properties of the real-time files are preserved during the recording process" as taught in the

CUSTOMER NO.: 24498**Serial No. 09/914,683**

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Response dated: 03/16/06

PATENT**PD990013**

Applicant's Specification and claimed by at least the Applicant's claim 1. That is, in contrast to the invention of the Applicant, litsuka teaches a data playback apparatus for the reproduction of data from a recording medium in which digital data is serially and successively recorded. The data playback apparatus of litsuka is equipped with a control unit which controls a reproduction unit for reproducing data from the recording medium. The control unit determines a predetermined condition such as presence or absence of requirement of a real-time data reproduction on the basis of control information which is recorded together with the data in the recording medium. In accordance with the predetermined condition, the control unit controls the reproduction unit so as to change the reproduction speed of the data from the recording medium, thereby realizing a high transfer rate in reproduction. (See litsuka, Abstract). That is, litsuka teaches the manipulation of a reproduction speed to achieve real-time data reproduction, which essentially teaches the opposite of what is taught and claimed in the invention of the Applicant.

More specifically, the Applicant teaches a recording method for real-time data such that when the real-time data is reproduced normally, the real-time properties and attributes of the real-time data are not lost. In contrast, litsuka teaches that to reproduce previously recorded real-time data, reproduction speeds must be manipulated. That is, the Applicant submits that litsuka does not teach, suggest or anticipate the recording of real-time file attributes along with real-time data such that "rules for recording the real-time files are derived from the real-time file attributes in order to ensure that the real-time properties of the real-time files are preserved during the recording process" as taught in the Applicant's Specification and claimed by at least the Applicant's claim 1.

Therefore, the Applicant submits that for at least the reasons recited above independent claim 1 is not anticipated by the teachings of litsuka and, as such, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

Furthermore, dependent claims 2 and 4 depend directly from independent claim 1 and recite additional features therefor. As such and for at least the reasons set forth herein, the Applicant submits that dependent claims 2 and 4 are also not anticipated by the teachings of litsuka. Therefore the Applicant submits

CUSTOMER NO.: 24498

Serial No. 09/914,683

Reply to Office Action dated: 01/09/06

Response dated: 03/16/06

PATENT

PD990013

that dependent claims 2 and 4 also fully satisfy the requirements of 35 U.S.C. § 102 and are patentable thereunder.

The Applicant reserves the right to establish the patentability of each of the claims individually in subsequent prosecution.

B. 35 U.S.C. § 102

The Examiner rejected claims 1-2 and 4-7 under 35 U.S.C. § 102(b) as being anticipated by Chung (EP Patent Application 0 953 977 A1). The rejection is respectfully traversed.

The Examiner alleges that regarding claim 1, Chung teaches method for recording real-time files including all of the elements of the Applicant's invention. The Applicant respectfully disagrees.

The Applicant would like to respectfully point out to the Examiner that the Chung reference is an improper 102(b) reference. More specifically, 35 U.S.C. § 102 indicates that a person shall be entitled to a patent unless - (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The Applicant submits that the above identified U.S. patent application is a national stage patent application of a PCT application that was filed on February 21, 2000. As such, the effective filing date for purposes of prior art for the above identified national stage patent application is February 21, 2000. As such and because the publication date of the Chung reference is November 03, 1999, the Applicant respectfully submits that the Chung reference can not be applied as a proper 102(b) reference under the provisions of 35 U.S.C. § 102.

Therefore, the Applicant submits that for at least the reasons recited above independent claim 1 is not anticipated by the teachings of Chung under the provisions of 35 U.S.C. § 102(b) and, as such, fully satisfies the requirements of 35 U.S.C. § 102(b) and is patentable thereunder.

Furthermore, the Applicant submits that for at least the reasons recited above, dependent claims 2, 4 and 7, which depend either directly or indirectly from independent claim 1 and recite additional features therefore and have the same

CUSTOMER NO.: 24498

Serial No. 09/914,683

Reply to Office Action dated: 01/09/06

Response dated: 03/16/06

PATENT

PD990013

effective filing date, are also not anticipated by the teachings of Chung under the provisions of 35 U.S.C. § 102(b) and, as such, fully satisfy the requirements of 35 U.S.C. § 102(b) and are patentable thereunder.

The Applicant reserves the right to establish the patentability of each of the claims individually in subsequent prosecution.

C. 35 U.S.C. § 103

The Examiner rejected claim 3 under 35 U.S.C. § 103(a) as being unpatentable over Chung in view of Nordling (U.S. Patent 5,943,391). The rejection is respectfully traversed.

The Examiner applied Chung for the rejection of claim 3 as applied above for the rejection of the Applicant's claim 1. As stated above with regards to claim 1, the Applicant would like to respectfully point out to the Examiner that the Chung reference is an improper 102(b) reference. More specifically, 35 U.S.C. § 102 indicates that a person shall be entitled to a patent unless - (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The Applicant submits that the above identified U.S. patent application is a national stage patent application of a PCT that was filed on February 21, 2000. As such, the effective filing date for purposes of prior art for the above identified national stage patent application is February 21, 2000. As such and because the publication date of the Chung reference is November 03, 1999, the Applicant respectfully submits that the Chung reference can not be applied as a proper 102(b) reference under the provisions of 35 U.S.C. § 102.

Furthermore, the Applicant further submits that Chung is an improper 103(a) reference. That is, 35 U.S.C. § 103 indicates that (a) - A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

CUSTOMER NO.: 24498

Serial No. 09/914,683

Reply to Office Action dated: 01/09/06

Response dated: 03/16/06

**PATENT
PD990013**

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The Applicant respectfully submits that the subject matter sought to be patented and the prior art are such that the subject matter as a whole would not have been obvious at the time the invention was made to a person having ordinary skill in the art because at the time the invention of the Applicant was made, the Chung reference had not yet been published. As such, the Chung reference can not be properly applied as a prior art reference against the Applicant's present application under 35 U.S.C. § 103(a).

In addition, the Applicant submits that the teachings of Nordling alone, also fail to teach, suggest or make obvious the invention of the Applicant, at least with regards to independent claim 1. That is, the teachings of Nordling for a method and device for a debugger and test data collector, fail to teach, suggest or make obvious at least a method for recording real-time files containing real-time data including at least that "rules for recording the real-time files are derived from the real-time file attributes in order to ensure that the real-time properties of the real-time files are preserved during the recording process" as taught in the Applicant's Specification and claimed by at least the Applicant's claim 1 and as such dependent claim 3.

Therefore, the Applicant submits that for at least the reasons recited above independent claim 3 is not rendered obvious by the teachings of Chung and Nordling under the provisions of 35 U.S.C. § 103(a) and, as such, fully satisfies the requirements of 35 U.S.C. § 103(a) and is patentable thereunder.

Conclusion

Thus the Applicant submits that none of the claims, presently in the application, are anticipated under the provisions of 35 U.S.C. § 102(b) or rendered obvious under the provisions of 35 U.S.C. § 103(a). Consequently, the Applicant believes that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

CUSTOMER NO.: 24498

Serial No. 09/914,683

Reply to Office Action dated: 01/09/06

Response dated: 03/16/06

**PATENT
PD990013**


If however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion, it is respectfully requested that the Examiner telephone the undersigned.

No fee is believed due. However, if a fee is due, please charge the additional fee to Deposit Account No. 07-0832.

Respectfully submitted,

Marco Winter

By:


Jorge Tony Villabon, Attorney
Reg. No. 52,322
(609) 734-6445

Patent Operations
Thomson Licensing Inc.
P.O. Box 5312
Princeton, New Jersey 08543-5312

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